

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

INA STEINER, DAVID STEINER, and  
STEINER ASSOCIATES, LLC,

Plaintiffs,

v.

EBAY INC., ET AL.,

Defendants.

**CIVIL ACTION NO.: 1:21-CV-11181-DPW**

Leave to File Granted October 29, 2021

**ORAL ARGUMENT REQUESTED**

**DEFENDANT PROGRESSIVE F.O.R.C.E. CONCEPTS, LLC'S**  
**MOTION TO DISMISS**

NOW COMES defendant Progressive F.O.R.C.E. Concepts, LLC (PFC) and pursuant to Rule 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure hereby moves for dismissal as to all claims set forth in the complaint. As more fully set forth in the accompanying memorandum of law, this action is premised on the criminal activities of former eBay employees or members of eBay's security division pursuant to the purported directives of two former eBay executives and as to Natick residents Ira and David Steiner as well as Steiner Associates, LLC, a publisher of an ecommerce newsletter. Defendants include 11 individuals as well as eBay and PFC. PFC is a Nevada based company and was an independent contractor providing certain contractual security services to eBay, including loaning one of the individual defendants, Veronica Zea, to eBay who worked out of eBay's California office and as an eBay analyst.

The complaint contains twelve counts: one federal claim-civil RICO and 11 claims under the state law of either Massachusetts or California. There is no actionable RICO claim as plaintiffs lack standing and otherwise failed to allege any viable enterprise; continuity; association-in-fact;

or that PFC in any way operated or managed any enterprise. As to the state law-based claims, there lacks personal jurisdiction over PFC with the allegations otherwise insufficient as to any plausible claim, either direct or vicarious, as to PFC. While it is alleged that one of the individual defendants (Zea) was a contractor for eBay and paid by PFC, the complaint makes clear she, at all times, worked as a member of the eBay security division undertaking the conduct alleged at the specific direction of eBay supervisors and pursuant to the purported directive or plan of certain defendant eBay executives. There is no plausible claim as the complaint is devoid of any allegation that PFC participated, knew of, ratified, or condoned the purported conduct, scheme, or plan with defendant Zea's actions otherwise clearly outside the scope of any possible agency relationship with PFC with her, in fact, entering a criminal plea to criminal charges. PFC refers and incorporates its accompanying memorandum of law.

WHEREFORE, defendant Progressive F.O.R.C.E. Concepts, LLC respectfully requests that its Motion to Dismiss be ALLOWED.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d), Progressive F.O.R.C.E. Concepts, LLC respectfully requests oral argument in connection with this Motion to Dismiss. The motion raises significant questions about whether the complaint has adequately stated certain claims upon which relief can be granted as well as whether there is personal jurisdiction over PFC. Oral argument will allow the parties to address this issue fully and to respond to any questions the Court may have.

Respectfully submitted,  
PROGRESSIVE F.O.R.C.E. CONCEPTS, LLC,  
By Its Attorneys,

/s/ Tory A. Weigand

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**CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)**

The undersigned counsel for the defendant hereby certifies that he has attempted to confer with plaintiffs' counsel in this matter, in a good faith attempt to resolve or narrow the issues of dispute raised in the accompanying motion, in accordance with Local Rule 7.1.

/s/ Tory A. Weigand

Tory A. Weigand

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on November 12, 2021.

/s/ Tory A. Weigand

Tory A. Weigand